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Submission to the FCC Special Access Data Collection by the International Telecommunications Users Group (INTUG)

Although the deadline for submissions for organisations with less than 1500 employees is not until next month, INTUG (the International Telecommunications Users Group) is an association of associations around the world and hence cannot really be judged for size by employee count. INTUG is therefore making a qualitative submission today in accordance with the large organization deadline to ensure the required timetable is met.

INTUG is an international association of business users of telecommunications, bringing together national and multinational user associations throughout the world. With members and contacts in all five continents we have a global presence. INTUG was founded in 1974, and has contributed significantly to opening telecommunications markets to competition.

INTUG welcomed the February 2013 announcement by US President Barack Obama and European Commission President José Manuel Barroso to begin negotiations on a Transatlantic Trade and Investment Partnership (TTIP). The EU and the US have the largest bilateral trade relationship in the world, with the combined economies accounting for half the world's GDP and for nearly a third of world trade flows (from the EC site).

Real opportunities for continued and increased growth, however, remain. Specifically, INTUG believes that the current Special Access circuit provision constraints are both an anti-competitive barrier and a hindrance to economic growth and competition, especially in the supply of business access services in the US electronic communications sector. This is damaging the well-being of US firms dependent on communications services.

INTUG supports competition for communications services worldwide. In the EU, regulation seeks to ensure that, in the absence of other competitive constraints, dominant operators provide their competitors with access to broadband networks at non-discriminatory, transparent, and cost-based terms. Significant progress has been made towards achieving this goal, with increased competition within the EU, opening up opportunities for US communications firms to compete, and improving options for business customers

In the US, however, unlike in the EU, competitors and new entrants do not benefit from wholesale access regulation. Widespread premature deregulation of business access services in the US has led to the elimination of competition and protections for consumers and competitors. In addition, the US does not have any viable anti-trust remedies for abuses of market control and anti-competitive behaviour by US incumbents. This results in a behind-the-border barrier that exists, not due to the presence of regulation, but due to an absence of pro-competitive regulation.

International corporate users from all private sectors and government and public sector systems rely on open connectivity for networks in support of online business processes, especially those linking extended supply chains where multiple service providers are involved. As a result, it is essential that broadband service providers and businesses throughout the economy need to obtain business access services at a reasonable price to ensure competition, innovation, broadband deployment, jobs and growth.

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In the US, over 90% of last mile business access services continue to be controlled by the incumbents, whose unfettered control generates estimated profit margins of 60-170%, compared to the US regulator's last authorized rate of return which was 11.25%.

The lack of pro-competitive regulation in the US also distorts competition in global markets for electronic communications services. As a result of ex-ante regulation in the EU's electronic communications framework, as well as competition oversight, US players in the business communications market can compete in Europe. However, EU players face serious barriers due to the lack of regulation for business access products and lack of intervention by competition authorities in the US. An electronic communications services company cannot affordably provide service to global enterprise customers without reliable, competitively-priced, non-discriminatory fixed access in its customers' foreign locations.

As access to customer premises of multi-national companies in the US is key for most global contracts, European operators cannot compete on the same terms in the US as the players dominant in the US can compete in the EU for the same enterprise customers. This regulatory divergence results in an unbalanced playing field which negatively impacts EU carriers operating in the US as well as in the EU, as US incumbents are able to take their overearnings made in the US and invest more aggressively in the European market. Fair non-discriminatory availability of Special Access circuits is urgently required

INTUG urges the FCC to act on the results of its quantitative data collection exercise and on qualitative input, which takes a broader international view of this critical economic issue.